

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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ENRIQUE AFRICA, individually and on
behalf of all other similarly situated,

Plaintiff,

21 **CIVIL** 1419 (JMF)

-against-

JUDGMENT

JIANPU TECHNOLOGY INC. et al.,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated August 23, 2023, Africa still does not adequately plead scienter, and all of his claims must be dismissed. Thus, Defendants' motion to dismiss must be and is GRANTED. This time, the Court will deny leave to amend. Leave to amend a complaint should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), and complaints dismissed under the PSLRA "are almost always dismissed with leave to amend," *Pasternack v. Shrader*, 863 F.3d 162, 175 (2d Cir. 2017) (internal quotation marks omitted). That said, "[w]here it appears that granting leave to amend is unlikely to be productive,... it is not an abuse of discretion to deny leave to amend." *Ruffolo v. Oppenheimer & Co.*, 987 F.2d 129, 131 (2d Cir. 1993). Africa has now had two opportunities to amend, and the Court explicitly cautioned in *Africa I* that this would be his "final chance." 2022 WL 4537973, at *13. In light of the foregoing, the Court concludes that any amendment would be futile. See, e.g., *Roundtree v. City of New York*, No. 19-CV-2475 (JMF), 2021 WL 1667193, at *6 (S.D.N.Y. Apr. 28, 2021) (citing cases). One final housekeeping matter remains. Under the PSLRA, the Court is required

to "include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion." 15 U.S.C. § 78u-4(c)(1). The Court finds that all legal claims and defenses presented throughout this litigation were nonfrivolous under existing law and that all factual contentions had evidentiary support or were reasonably based on belief or a lack of information. Accordingly, no sanctions under Rule 11 are warranted. Judgment is entered in Defendants' favor consistent with Africa I and the Opinion and Order; accordingly, the case is closed.

Dated: New York, New York
August 23, 2023

RUBY J. KRAJICK

Clerk of Court

BY:

K. mango

Deputy Clerk